IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH NAGPUR

First Appeal No.256/2001

Maharashtra Industrial Development Corporation
through its Regional Officer Udyog Bhavan,
Civil Lines, Nagpur. **APPELLANT**

VERSUS

1. Shri Fakira Punja Mongare
   aged about 63 years,
   Occu. Agriculturist
   resident of Maregaon,
   Tahsil Mul,
   District Chandrapur.

2. The State of Maharashtra,
   Through The Sub Divisional
   Officer, Chandrapur. **RESPONDENTS**

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First Appeal No.230/2001

Maharashtra Industrial Development Corporation
through its Regional Officer Udyog Bhavan,
Civil Lines, Nagpur. **APPELLANT**

VERSUS

1. Shri Wasudeo Kawadu Nikode
   aged about 40 years,
   Occu. Agriculturist

resident of Mul,
District Chandrapur.

2. The State of Maharashtra,
Through The Sub Divisional
Officer, Chandrapur. **RESPONDENTS**

First Appeal No.584/2002

Maharashtra Industrial Development Corporation
through its Regional Officer Udyog Bhavan,
Civil Lines, Nagpur. **APPELLANT**

VERSUS

1. Narayan Kawdu Jumnake
aged about 40 years,
Occu. Agriculturist
resident of Maregaon,
Tahsil Mul,
District Chandrapur.

2. The State of Maharashtra,
Through The Sub Divisional
Officer, Chandrapur. **RESPONDENTS**

First Appeal No.204/2003

Maharashtra Industrial Development Corporation
through its Regional Officer Udyog Bhavan,
Civil Lines, Nagpur. **APPELLANT**

VERSUS

1. Ganpat Kawdu Warkhede
aged about 41 years,

Occu. Agriculturist
resident of Maregaon,
Tahsil Mul,
District Chandrapur.

2. The State of Maharashtra,
Through The Sub Divisional
Officer, Chandrapur. **RESPONDENTS**

First Appeal No.205/2003

Maharashtra Industrial Development Corporation
through its Regional Officer Udyog Bhavan,
Civil Lines, Nagpur. **APPELLANT**

VERSUS

1. Ashok V. Tangadpalliwar
aged about 50 years,
Occu. Agriculturist
resident of Maregaon,
Tahsil Mul,
District Chandrapur.

2. The State of Maharashtra,
Through The Sub Divisional
Officer, Chandrapur. **RESPONDENTS**

First Appeal No.236/2001

Maharashtra Industrial Development Corporation
through its Regional Officer Udyog Bhavan,
Civil Lines, Nagpur. **APPELLANT**

VERSUS

1. Shri Tulsiram Ade
aged about 65 years,
Occu. Agriculturist
resident of Maregaon,
Tahsil Mul,
District Chandrapur.

2. The State of Maharashtra,
Through The Sub Divisional
Officer, Chandrapur. **RESPONDENTS**

First Appeal No.237/2001

Maharashtra Industrial Development Corporation
through its Regional Officer Udyog Bhavan,
Civil Lines, Nagpur. **APPELLANT**

VERSUS

1. Shri Rajaram Narayanrao Chaudhari
aged about 52 years,
Occu. Agriculturist
resident of Chimda,
Tahsil Mul,
District Chandrapur.

2. The State of Maharashtra,
Through The Sub Divisional
Officer, Chandrapur. **RESPONDENTS**

First Appeal No.249/2001

Maharashtra Industrial Development Corporation
through its Regional Officer Udyog Bhavan,

Civil Lines, Nagpur. **APPELLANT**

VERSUS

1. Shri Vithal Sonu Wakudkar
aged about 45 years,
Occu. Agriculturist
resident of Marhegaon,
Tahsil Mul,
District Chandrapur.

2. The State of Maharashtra,
Through The Sub Divisional
Officer, Chandrapur. **RESPONDENTS**

First Appeal No.271/2001

Maharashtra Industrial Development Corporation
through its Regional Officer Udyog Bhavan,
Civil Lines, Nagpur. **APPELLANT**

VERSUS

1. Shri Mohammad Ibrahim Mohammad Yusuf,
Since dead through his L.Rs.

1-A Mohammad Salim s/o Mohammad Ibrahim
aged about 30 years,

1-B Saida Khatun wd/ Mohammad Ibrahim
aged about 50 years,

1-C Mohammad Taslim s/o Mohammad Ibrahim
aged about 35 years,

all resident of Mul,

District Chandrapur.

2. The State of Maharashtra,
Through The Sub Divisional
Officer, Chandrapur. **RESPONDENTS**

First Appeal No.272/2001

Maharashtra Industrial Development Corporation
through its Regional Officer Udyog Bhavan,
Civil Lines, Nagpur. **APPELLANT**

VERSUS

1. Shri Ako Sitaram Choudhari
aged about 55 years,
Occu. Agriculturist
resident of Tekadi,
Tahsil Mul,
District Chandrapur.

2. The State of Maharashtra,
Through The Sub Divisional
Officer, Chandrapur. **RESPONDENTS**

First Appeal No.307/2001

Maharashtra Ind5ustrial Development Corporation
through its Regional Officer Udyog Bhavan,
Civil Lines, Nagpur. **APPELLANT**

VERSUS

1. Shri Dashrath Pendor
aged about 45 years,

Occu. Agriculturist
resident of Maregaon,
Tahsil Mul,
District Chandrapur.

2. The State of Maharashtra,
Through The Sub Divisional
Officer, Chandrapur. **RESPONDENTS**

First Appeal No.323/2001

Maharashtra Industrial Development Corporation
through its Regional Officer Udyog Bhavan,
Civil Lines, Nagpur. **APPELLANT**

VERSUS

1. Shri Dadaji Punjaram Ladawe,
aged about 60 years,
Occu. Agriculturist

2. Namdeo Punjaram Ladawe
Aged about 50 years,
Occu. Agriculturist

3. Mrs. Sakhubai Vithal Choudhari
Aged about 60 years, Occ. Nil.
1 to 3 are resident of Maregaon,
Tahsil Mul,
District Chandrapur.

4. Anjanabai Tulshiram Parate
Aged about 60 years,
Occ : Wagholi, Tahsil Chamorshi
District Gadchiroli.

5. Yashodabai Pandurang Zate
Aged about years
Resident of Mul, Tahsil Mul,
District Chandrapur.

6. The State of Maharashtra,
Through The Sub Divisional
Officer, Chandrapur. **RESPONDENTS**

First Appeal No.334/2001

Maharashtra Industrial Development Corporation
through its Regional Officer Udyog Bhavan,
Civil Lines, Nagpur. **APPELLANT**

VERSUS

1. Vasant Parsuram Dhole
SINCE DEAD THROUGH HIS L.R's

2. Smt. Dhurpatabai wd/o Vasant Dhole
aged about 55 years,
Occupation Agriculturist.

3. Kushal Vasant Dhole
aged about 27 years,
Occupation Agriculturist.

4. Gurudas Vasant Dhole
aged about 25 years,
Occupation Agriculturist.
2 to 4 resident of Tekadi,
Tahsil Mul,
District Chandrapur.

5. The State of Maharashtra,

Through The Sub Divisional
Officer, Chandrapur. **RESPONDENTS**

First Appeal No.354/2001

Maharashtra Industrial Development Corporation
through its Regional Officer Udyog Bhavan,
Civil Lines, Nagpur. **APPELLANT**

VERSUS

1. Shri Bhaurao Narayan Tangadpalliwar
aged about 56 years,
Occu. Agriculturist
resident of Maregaon,
Tahsil Mul,
District Chandrapur.

2. The State of Maharashtra,
Through The Sub Divisional
Officer, Chandrapur. **RESPONDENTS**

First Appeal No.514/2002

Maharashtra Industrial Development Corporation
through its Regional Officer Udyog Bhavan,
Civil Lines, Nagpur. **APPELLANT**

VERSUS

1. Ramdas Shrawan Gurnunale
aged about 49 years,
Occu. Agriculturist
resident of Maregaon,
Tahsil Mul,

District Chandrapur.

2. The State of Maharashtra,
Through The Sub Divisional
Officer, Chandrapur. **RESPONDENTS**

First Appeal No.534/2002

Maharashtra Industrial Development Corporation
through its Regional Officer Udyog Bhavan,
Civil Lines, Nagpur. **APPELLANT**

VERSUS

1. Pandurang Shivram Ladawe
aged about 70 years,
Occu. Agriculturist
resident of Maregaon,
Tahsil Mul,
District Chandrapur.

2. The State of Maharashtra,
Through The Sub Divisional
Officer, Chandrapur. **RESPONDENTS**

First Appeal No.545/2002

Maharashtra Industrial Development Corporation
through its Regional Officer Udyog Bhavan,
Civil Lines, Nagpur. **APPELLANT**

VERSUS

1. Narayan Asuji Chitade
aged about 60 years,

Occu. Agriculturist
resident of Maregaon,
Tahsil Mul,
District Chandrapur.

2. The State of Maharashtra,
Through The Sub Divisional
Officer, Chandrapur. **RESPONDENTS**

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Mr.M. M. Agnihotri, Advocate for the appellant - MIDC.
Mr. A. R. Patil and Mrs. U.A. Patil, Advocates for claimant(s)-respondents in all appeals.
Mr. Deopujari, AGP for State of Maharashtra-respondents in all appeals.

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Coram : A.P. LAVANDE, J.
Dated : September 14, 2006

ORAL JUDGMENT :

1 All these appeals are being disposed of by common judgment since common questions of fact and law are involved in all these appeals.

2 State of Maharashtra acquired lands belonging to several

persons, including those of the respondents in the present appeals for the benefit of Maharashtra Industrial Development Corporation (hereinafter referred to as “The Corporation”) under the provisions of Maharashtra Industrial Development Act, 1961 (hereinafter referred to as “the Act”). Aggrieved by the compensation fixed by the Collector, the land owners filed the application under Section 34 of the Act claiming higher compensation. In all the references the State of Maharashtra was was made party. The Corporation was not joined as party in the references. The Court, after considering the evidence led by the claimants and State of Maharashtra enhanced the compensation. Aggrieved by the judgments and orders passed by Civil Judge, Senior Division, Chandrapur in several Land Acquisition References, the Corporation has filed above appeals. The details of the said References are as under:-

F.A. No.	LAC No.	Date of Judgment
256/2001	28/1995	15/11/2000
230/2001	17/1995	15/11/2000
584/2002	41/1995	30/04/2001
204/2003	39/1995	30/04/2001
205/2003	29/1995	30/04/2001
236/2001	22/1995	09/10/2000
237/2001	20/1995	15/11/2000

249/2001	38/1995	21/10/2000
271/2001	23/1995	21/11/2000
272/2001	42/1995	21/10/2000
307/2001	26/1995	15/11/2000
323/2001	15/1995	15/11/2000
334/2001	19/1995	15/11/2000
354/2001	16/1995	15/11/2000
514/2001	33/1995	30/04/2001
534/2002	43/1995	30/04/2001
545/2002	27/1995	20/04/2001

3 I have heard Mr. Agnihotri, learned counsel on behalf of the appellant-Corporation, Mr. Deopujari, learned AGP for the respondent-State of Maharashtra, and Mr. and Ms. Patil, learned counsel for the claimants/respondents.

4. Mr. Agnihotri, learned counsel appearing for the Corporation submitted that impugned judgments and orders are liable to be set aside on the ground that although the acquisition of lands belonging to the respondents/claimants was made for the benefit of the Corporation and consequently, it is the responsibility of the Corporation to pay enhanced compensation, the Corporation was not made a party before the Reference Court. According to Mr. Agnihotri, the Corporation was necessary party before the Reference Court and therefore, the judgments and orders passed by the

Reference Court are vitiated. According to Mr. Agnihotri, all the impugned judgments and orders are liable to be set aside and the matters remanded back to the Reference Court for dealing with the matters in the light of the directions given by the Apex Court in several judgments. In support of his submissions, the learned counsel relied upon the following judgments:-

(i) AIR 1995 Supreme Court 724 (U.P. Awas Evam Vikas Parishad V. Gyan Devi (Dead) by L.Rs. and another).

(ii) AIR 2002 Supreme Court 817 (Abdul Rasak and others Vs. Kerala Water Authority and others).

(iii) (2004) 12 Supreme Court Cases 96 (NTPC Ltd. Vs. State of Bihar and others).

5 Mr. Deopujari, learned AGP supported the submissions made by Mr. Agnihotri, learned counsel for the appellant-Corporation in all the appeals. In view of the ratio laid down by the Apex court in various judgments, learned counsel appearing for the respondents-claimants could not seriously support the impugned judgments and orders.

6 In U.P. Awas Evam Vikas Parishad's case (supra) the

Constitution Bench of the Apex Court held that when the land is acquired for local authority or company, the authority or local company as the case may be is a proper party in the proceedings before the Reference Court and is entitled to be impleaded as a party in those proceedings wherein it can defend the determination of the amount of compensation by the Collector and oppose enhancement of the said amount and also adduce evidence in this regard.

In Abdul Rasak's case (supra) the Apex Court after referring to the above referred Constitution Bench judgment of the Apex Court gave certain directions.

In NTPC Ltd's case (supra) the Apex Court held that body on whose behalf land is acquired is necessary and proper party and therefore entitled to be impleaded in proceedings before Reference Court and in case body on whose behalf land is acquired is not jointed before the Reference Court, award passed in its absence is liable to be set aside and the matter remanded back to the Reference Court.

7 In view of clear ratio laid down by the Constitution Bench of

the Apex court and the other judgments of the Apex Court relied upon by the appellant to the effect that body for whose benefit the land is acquired is necessary party before the Reference Court, the impugned judgments and orders are liable to be set aside. Consequently, the judgments and orders passed by the Reference Court, the details of which are given in paragraph 2 above, are set aside with the following directions:-

(1) The Corporation shall be deemed to have been brought on record in the reference cases as defendant-non-applicant as the case may be. The cause title of the reference cases shall be amended accordingly. The Corporation is at liberty to file its written statement.

(2) The statement of the witnesses already recorded on behalf of the claimants need not be recorded afresh.

(3) The Corporation shall be allowed an opportunity of cross-examining the witnesses which have already been examined. However, such of the witnesses as are not available, and, therefore, cannot be called before the Court, their statements shall not be excluded from consideration and shall be read in evidence.

(4) The claimants may adduce such other evidence as they may propose to do and State of Maharashtra and Corporation shall have the liberty to cross-examining such witnesses who are now examined by the claimants.

(5) The Corporation shall have the liberty of adducing such evidence as it may propose to do.

(6) The Corporation shall not be entitled to a separate notice of the proceedings since the parties are represented by counsel. They are directed to appear before the Reference Court on 1st November, 2006 at 11.00 a.m. either personally or through their advocates.

(7) Since the lands of the claimants were acquired more than a decade ago, the Civil Court shall decide the References expeditiously and preferably within a period of one years from the date of receipt of this order.

8 The next question which arises for consideration is what order should be passed in relation to the amounts deposited by the appellants in these appeals pursuant to the orders passed upon the applications for stay filed by the Corporation. Learned counsel for the claimants submitted that in few matters the amounts were

withdrawn by the claimants upon giving security but in most of the matters the same have been invested. In those cases in which the amounts have not been withdrawn by the claimants, needless to mention that the Corporation shall be entitled to get back the amounts deposited by them in the appeals with interest thereon if the amounts have been invested in bank. In those cases in which the claimants-respondents have withdrawn the amounts upon giving security, they shall deposit the amounts received by them in this Court within a period of eight weeks and the Corporation shall be entitled to withdraw the same.

9. The appeals are disposed of in the aforesaid terms. Having regard to the facts and circumstances of the case, parties are directed to bear their own costs. Registry to send the records and proceedings in all the appeals to the Reference Court expeditiously.

JUDGE